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November 13, 2019

BY ECF

The Honorable Roanne L. Mann
U. S. District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Tess v. City of New York et als, 18-CV-6542 (KAM(RLM))

Your Honor:

I am the plaintiff's counsel, and write to respectfully request that the Court compel defendants to produce responses to plaintiffs' Third Set of Interrogatories and Demand for Documents. These demands were served on defendants on September 3, 2019.

Despite plaintiff's best efforts, and an abundance of patience, defendants have failed to respond or indicate whether or when they plan to respond to the outstanding demands. Discovery is scheduled to close on December 9, 2019.

Plaintiff respectfully requests that Your Honor compel defendants to produce full and complete discovery responses within a week from the date of the Court's order, and deem, as defendants' responses are now grossly overdue, all objections waived

The following is a brief chronology of plaintiff's efforts. On September 26, plaintiff contacted defendants concerning discovery responses and noticed depositions. On September 30, defendants responded that they were working on responses.¹

On October 23, 2019 plaintiff, still not having received responses, called defendants and asked that they provide a day that they could respond. Defendant requested November 9th and plaintiff consented. (Exhibit B). Defendants also agreed to produce a 30(b)(6) witness, as well as the officers on the scene of plaintiffs arrest, for depositions on November 13 and November 14. These witnesses were not produced.

Plaintiff has not heard further from defendants in any regard. Accordingly, we ask that the Court direct defendants to produce full and complete discovery responses within a week from the date of the Court's order. We further note that as defendants' responses are

¹ The numerous emails exchanged by the parties during this period regarding this issue are attached as Exhibit A.

now overdue, all objections are waived. See, e.g., Silva v. Cofresi, 2014 WL 3809095, at *6 (S.D.N.Y. Aug. 1, 2014); Parlin Funds LLC v. Gilliams, 2012 WL 5265554, at *1 (S.D.N.Y. June 15, 2012) report and recommendation adopted, 2012 WL 5258984 (S.D.N.Y. Oct. 23, 2012); Senat v. City of New York, 255 F.R.D. 338, 339 (E.D.N.Y. 2009); Sherwin Williams Co. v. Spitzer, 2005 WL 2128938, at *16 (N.D.N.Y. Aug. 24, 2005).

For the foregoing reasons, plaintiffs respectfully request that the Court issue an order compelling the defendants to promptly produce full and complete responses to plaintiffs' Third Set of Interrogatories and Demand for Documents, with all objections deemed waived.

Thank you for your kind attention to this issue.

Respectfully,

/s
Robert Marinelli

Copy: James Jimenez, Esq. (by fax)